

## RECENT DEVELOPMENTS

JUDITH H. BELLO\*  
ALAN F. HOLMER

### ***U.S. Trade Law and Policy Series No. 23:*** **Reflections on the NAFTA as a Turning Point in American Foreign Policy**

#### **I. Declining Deference to the President and Foreign Policy Elites in the Post-Cold War World**

Throughout the Cold War, the American people largely supported, without significant scrutiny, the more or less consistent foreign policy of both Democratic and Republican presidents. The bedrock of that policy was clearcut: U.S. leadership of the free world in opposition to the Soviet Communist threat.

Banging his shoe on the table, Nikita Khrushchev threatened to bury us. In 1957, his country launched its first Sputnik and thus the U.S.-Soviet Space Race. The Cuban missile crisis underscored the immediate reality of the Soviet threat for Americans from Miami to Minneapolis, from Mission Bay to Maine Harbor.

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\*The authors are partners in the Washington, D.C., office of Sidley & Austin. Mr. Holmer previously served as Deputy United States Trade Representative, and Ms. Bello as General Counsel to the U.S. Trade Representative.

This article differs from others in the *U.S. Trade Law and Policy Series* because the significance of the tumultuous debate on the legislative implementation of the NAFTA warrants examination for future trade and foreign policymaking in the post-Cold War era.

Threatened with annihilation, American school children were taught to crouch under their desks in civil defense drills; their parents were encouraged to build and stock fallout shelters. Theater billboards across America screamed *The Russians Are Coming! The Russians Are Coming!* and treated us to *Dr. Strangelove (Or How I Learned to Stop Worrying and Love the Bomb)* and *Failsafe*.

In this climate of fear and potential total destruction through nuclear weaponry, Americans trusted their president—the leader of the Western world—to protect them with America's might. The commander-in-chief and his troops, the foreign policymaking institutions, the Pentagon, and the military-industrial complex were empowered to enable America to prevail in its titanic struggle for good over evil.

The only major exception to such trust and deference was the Vietnam War. The baby-boom generation that supplied most of the troops for jungle warfare in Vietnam did not accept the foreign policy institutions' view that the Vietnam conflict was necessary to avoid the "domino effect" of Soviet expansion around the globe. Presidents Lyndon Johnson and Richard Nixon lost the struggle for the hearts and minds of the American people on the Vietnam issue. Youth prevailed over its seniors, and American helicopters frantically ferried the last U.S. official personnel from Saigon as the city toppled in April 1975. Atypically, post-World War II Americans were unwilling to trust their leaders in the conduct of that particular war.

With the exception of Vietnam, most Americans simply relegated concerns about foreign policy to those "in a position to know." The relative handful of people who made foreign policy did so principally by seeking to influence each other. The "elites" in the administration and Congress, private sector, academia, and media debated and skirmished, thrust and parried, quipped and retorted, but the vast majority of Americans did not participate in the process of making foreign policy.

Realistically, most Americans are far more interested in affairs closer to home than those playing out in distant parts of the globe. Most people spend most of their time trying to earn a livelihood, raise their families, and support various church and community activities. They simply do not have a lot of time and energy left over to try to unravel centuries of ethnic rivalry in Bosnia or tribal conflicts in Somalia. Moreover, Americans have been happy to have foreign policy elites handle these issues, as long as they did it well and as long as Washington addressed satisfactorily the issues of most concern to them: the economy, education, and health and safety.

Today in America, however, many people do not believe that their government is adequately addressing their paramount concerns. Many think the government either impedes job creation in the private sector (as through strangulation by overregulation and taxation), or fails to do enough to stimulate it. Many feel they are paying more for the same or less health care, while thirty-seven million remain without any health insurance whatsoever. With handguns all too readily

available on seemingly every street corner and even in some schools, people certainly do not feel safe from crime.

Finally, Americans are no longer threatened by the Soviet Communist menace. The "evil empire" largely self-destructed (albeit with some help from strong U.S. defense policies), through its disproportionate allocation of resources to its military regime and its failure to develop a viable, market-based economy. We do not need the president to keep us safe from the Soviets, because the Soviets no longer exist.

While the world remains a very dangerous place—with actors like Saddam Hussein, Muammar Qaddafi, and the Haitian generals—the American people are no longer willing to leave American foreign policy to the foreign policy professionals. Freed from the Soviet menace, many Americans are increasingly critical of the failure of Washington to develop a new, coherent vision for U.S. foreign policy in the post-Cold War world for the twenty-first century.

## **II. The North American Free Trade Agreement as Populist Economic and Foreign Policy**

Enter the NAFTA, the North American Free Trade Agreement. The wall fell in Berlin in 1989; only six months later, Presidents Salinas and Bush agreed to enter into negotiations of a free trade agreement. The negotiations became trilateral when Prime Minister Mulroney indicated Canadian interest in participation.

The NAFTA negotiations began without any particular controversy. President Bush, his trade representative, Carla Hills, and his foreign policy team presumably thought that they would enjoy the more or less consistent support of the American people for an international negotiation to liberalize trade, as their predecessors largely had.

The first major indication to the contrary came with the congressional deliberations in the spring of 1991 on President Bush's March 1st request for a two-year extension of "fast track" authority. Many Democratic Members of Congress opposed the extension absent the President's assurances that he would not only negotiate a trade agreement in the national economic interest, but also satisfactorily address environmental protection and labor issues associated with developing countries in particular. In response, the President provided such assurances, and his request, which appeared in serious jeopardy in the early spring, was handily approved in May 1991.

Although the debate on the fast-track extension was vigorous, it remained relatively traditional. Foreign policy elites made points and counterpoints, thrust and parried. The thrusts were more cutting, perhaps, but the participants remained the so-called elites, with only one difference (which would prove critical): the inclusion of representatives of various environmental groups within that elite.

President Bush and U.S. Trade Representative Carla Hills concluded the

NAFTA negotiations in September 1992. On December 17, 1992, Presidents Bush and Salinas and Prime Minister Mulroney signed it. Between these two seminal events occurred another: the election of Governor Bill Clinton to serve as President of the United States.

During the campaign, Governor Clinton was not bound to embrace the NAFTA, even though its negotiation was completed. He was confronted with a difficult choice. Some of his political advisers urged him to "just say no" to the NAFTA. Organized labor, a core Democratic constituency, adamantly opposed the NAFTA. Indeed, the Democratic polls reportedly indicated in October 1992 that all Clinton needed to cinch the election was to win in two of three states—Michigan, Ohio, and Pennsylvania—all of which were regarded as anti-NAFTA. Governor Clinton must have been tempted to seize the election by rejecting the NAFTA, and try to pick up the NAFTA pieces later.

To his credit, however, Governor Clinton did the right thing, sort of; he supported the NAFTA despite the short-term political advantage in opposing it. However, the campaign politician felt unable to endorse the NAFTA wholesale, and thus effectively congratulate President Bush on his achievement. The candidate instead announced his support for the NAFTA in principle, *provided* it was substantially improved through the negotiation of three supplemental side accords on the environment, labor, and import surges.

Following his inauguration on January 20, 1993, President Clinton was obliged to effect an action plan with respect to the NAFTA. If he had urged the Democratic House and Democratic Senate to implement it then, his Democratic congressional colleagues would have been unlikely to resist the earliest program proposals of the first Democratic president in twelve years. Unfortunately, although he abandoned many other promises made on the campaign trail, he opted to stick with his promise to "improve" the NAFTA by negotiating side accords.

The Mexicans and Canadians, however, did not immediately recognize the U.S. proposals as improvements. They supported the trade agreement they had already negotiated and signed with President Bush, and were suspicious of the so-called side accords, which appeared likely to unravel the trade agreement. To the surprise of no one except apparently the new administration, the negotiations were not rapidly concluded, but rather dragged on until September.

Clinton administration officials were quite busy in their NAFTA-related activities throughout those many months. Officials worked hard and long to form proposals, try to generate support for them in the Congress, and negotiate and renegotiate them endlessly. However, what they failed to do throughout this crucial period was to make the case for the NAFTA to the American people.

President Clinton thus created a vacuum, which Ross Perot promptly filled. Mr. Perot disdained the Eastern Establishment and simply took his homespun case to the American people through his infomercials, speeches, publications, and media advertising. He told America that the NAFTA was a "giant sucking

sound'' of American jobs being drawn across the southern border. He claimed that millions of Americans' jobs were at risk because of the NAFTA.

He was not alone. Joining him were Jesse Jackson and the Congressional Black Caucus, Ralph Nader, Pat Buchanan, some extreme environmental groups, and of course, organized labor. This extraordinary group made extraordinary claims. For example, some of them asserted that the NAFTA would:

- create toxic hell,
- ravage natural resources,
- suppress democracy,
- reward Mexico for its human rights abuses, and
- put downward pressure on American standards of living.

While some of these claims were patently absurd and others easily countered, this information was all that many Americans beyond the Beltway encircling Washington heard about the NAFTA from Inauguration Day until September. They were led to believe, for example, that:

- the lives of mothers driving carpools of children on U.S. highways would be imperilled by unsafe Mexican trucks driven recklessly by unqualified Mexican drivers;
- illegal immigration from Mexico would mysteriously increase;
- plants all over America would shut their doors and reopen south of the border with lower paid workers and lower environmental compliance costs;
- their health could be endangered by imports of agricultural products from Mexico treated with unsafe levels of pesticides or other chemicals;
- the United States would lose its sovereignty, surrendered to Mexicans and Canadians or faceless supranational bureaucrats.

With only a one-way dialogue on the NAFTA, it was no surprise that a May 1993 *Time/CNN* poll revealed that 63 percent of the American people agreed with Ross Perot that the NAFTA was more likely to cost, rather than create, U.S. jobs.

### **III. President Clinton's Placement of the NAFTA in Serious Jeopardy and Belated, but Successful, Rescue**

President Clinton, nominally a NAFTA supporter, thus put the NAFTA into serious jeopardy. First, by failing to explain and advocate the benefits of the NAFTA until the autumn, he allowed the axis of NAFTA opponents an uncontested platform from which to denigrate it based in large part on disinformation. Public opinion, traditionally deferential to presidents on foreign policy (subject to the Vietnam exception), turned against the NAFTA he supported.

Second, the President exacerbated the NAFTA's peril by failing to exercise any discipline within the Democratic Party. The second and third ranking Democrats in the House of Representatives were allowed to oppose the NAFTA, and

thus their Democratic President, with impunity. To make matters worse, the Speaker of the House, while inclined to support the NAFTA, extraordinarily notified his colleagues in August 1993 that they would be free to vote their conscience on the NAFTA. Translation: if a vote for the NAFTA would be politically inconvenient in the 1994 congressional elections, feel free to vote against the President. Apparently the Speaker and the President were loathe to ruffle the Democratic feathers necessary to implement the NAFTA, for fear of alienating supporters needed for health care reform.<sup>1</sup>

Third, President Clinton failed to make the NAFTA a sufficient priority on his agenda, even after its real jeopardy became apparent. He appointed a NAFTA czar, apparently in an effort to try to reduce the need for his personal time and energy in the campaign for House and Senate votes. He then began a low-key, limited telephone campaign, followed only gradually by meetings with Members still uncommitted on the NAFTA. He launched his health care reform campaign with fanfare and held town meetings across America on health care, even though health care was a 1994 legislative issue and the NAFTA was an urgent 1993 legislative issue.

Fourth, his administration was slow to come forward with key proposals on how to offset the revenue losses that would be incurred through the elimination of tariffs on Mexican imports, and provide the necessary funds for new infrastructure along the border, environmental cleanup, and retraining for workers who lost jobs because of the NAFTA. While the budget issues were obviously difficult in view of the need to reduce the budget deficit, the administration did not display decisive, confidence-engendering leadership or consensus building skills.

Having been a large part of the problem, however, President Clinton finally became a large part of the solution. Once he belatedly got around to making the case for the NAFTA, he did a great job:

- Although his speeches are sometimes unfocused, they also can be impassioned. His advocacy for the NAFTA was often eloquent.
- He assured marginal Republicans—concerned about an anti-NAFTA Democratic challenger in the 1994 congressional elections—that he would “personally repudiate” any such challenge on the basis of a sitting Member’s vote for the NAFTA.
- He unleashed his Cabinet and subcabinet to wheel and deal for votes with Members concerned about imports of sugar, citrus, durum wheat, home appliances, float glass, and import-sensitive goods.

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1. Indeed, President Clinton was scheduled to participate in a re-election fundraiser in October 1993 for Senator Donald Riegle of Michigan, a key opponent of—and a chief organizer of opposition to—the NAFTA. The President’s schedule was changed only when the senator announced that he would not, after all, seek re-election.

Moreover, James Carville, a senior political adviser to the President, reportedly said that Members of Congress needed to support health care reform to benefit all those Americans who would lose their jobs as a result of the NAFTA.

- He painted the NAFTA as an integral part of his plan for domestic security, grounded on health care reform, job growth, worker retraining, and education.<sup>2</sup>
- He authorized Vice President Gore to debate Ross Perot about the NAFTA on the Larry King Show. The gamble paid off: the polls showed a sizable majority of Americans felt that the Vice President had bested Mr. Perot.

Ultimately, President Clinton—with support from more Republicans than Democrats—achieved the legislative implementation of the NAFTA. However much the trade agreement bears the hard-earned signature of President Bush, Ambassador Hills, and company, President Clinton's legislative victory earns him substantial credit, too, since it ultimately was his to win or to lose. Fortunately for all North Americans, he won.

#### **IV. The NAFTA's Largest Lesson: The Need to Develop Public Support for International Economic and Foreign Policies**

Perhaps the largest implication of the NAFTA, however, goes well beyond North America, economics, and jobs. In retrospect, the NAFTA may represent a turning point in American foreign policymaking. In addition to the Establishment—the power brokers in the government, private sector, media, and academia—lots of others have learned the way around the Office of the U.S. Trade Representative, the State and Treasury Departments, and even the National Security Council. Equally importantly, they have discovered their ability to tap populist interest in international trade and foreign policy issues, by identifying the stakes for “real” Americans.

In this post-Cold War/New World Order environment, the foreign policy elite also will have to reach out to the American people. The American public's support for foreign policies developed by the Washington establishment can no longer be taken for granted. Rather, it will have to be earned the hard way, through outreach, education, and public debate.

Declining deference by Americans beyond the Beltway to the president and foreign policy elites may prove far from a blessing. Populism will yield an equal or better foreign policy only when the people shaping it are well informed. Yet most Americans do not have the interest or time to learn and understand the complexities of America's foreign relations.

For better or worse, however, the foreign policy elites must learn how to generate public support for their policies. The alternative will be policies dictated by the public opinions influenced by special interest groups.

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2. Some in the administration even resorted to invoking the new, post-Cold War perceived “menace”—Japan—by suggesting that if America declined to accept the NAFTA, Japan would be only too pleased to take America's place through a free trade agreement with Mexico. While this tactic verged on indirect Japan-bashing, it may have been effective with some audiences.

